

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SONTERRA CAPITAL MASTER FUND, LTD.,  
HAYMAN CAPITAL MANAGEMENT, L.P., and  
CALIFORNIA STATE TEACHERS' RETIREMENT  
SYSTEM on behalf of themselves and all others  
similarly situated,

Plaintiffs,

- against -

UBS AG, UBS SECURITIES JAPAN CO. LTD.,  
MIZUHO BANK, LTD., THE BANK OF TOKYO-  
MITSUBISHI UFJ, LTD., THE SUMITOMO TRUST  
AND BANKING CO., LTD., THE NORINCHUKIN  
BANK, MITSUBISHI UFJ TRUST AND BANKING  
CORPORATION, SUMITOMO MITSUI BANKING  
CORPORATION, RESONA BANK, LTD., J.P.  
MORGAN CHASE & CO., JPMORGAN CHASE  
BANK, NATIONAL ASSOCIATION, J.P. MORGAN  
SECURITIES PLC, MIZUHO CORPORATE BANK,  
LTD., DEUTSCHE BANK AG, DB GROUP  
SERVICES UK LIMITED, MIZUHO TRUST AND  
BANKING CO., LTD., THE SHOKO CHUKIN BANK,  
LTD., SHINKIN CENTRAL BANK, THE BANK OF  
YOKOHAMA, LTD., SOCIÉTÉ GÉNÉRALE SA, THE  
ROYAL BANK OF SCOTLAND GROUP PLC, THE  
ROYAL BANK OF SCOTLAND PLC, RBS  
SECURITIES JAPAN LIMITED, RBS SECURITIES  
INC., BARCLAYS BANK PLC, BARCLAYS PLC,  
BARCLAYS CAPITAL INC., CITIBANK, NA,  
CITIGROUP, INC., CITIBANK, JAPAN LTD.,  
CITIGROUP GLOBAL MARKETS JAPAN, INC.,  
COÖPERATIEVE CENTRALE RAIFFEISEN-  
BOERENLEENBANK B.A., HSBC HOLDINGS PLC,  
HSBC BANK PLC, LLOYDS BANKING GROUP  
PLC, LLOYDS BANK PLC, ICAP PLC, ICAP  
EUROPE LIMITED, R.P. MARTIN HOLDINGS  
LIMITED, MARTIN BROKERS (UK) LTD.,  
TULLETT PREBON PLC, BANK OF AMERICA  
CORPORATION, BANK OF AMERICA, N.A.,  
MERRILL LYNCH INTERNATIONAL, AND JOHN  
DOE NOS. 1-50,

Defendants.

Docket No. 15-cv-5844 (GBD)  
ECF Case

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

I, Peter D. St. Phillip, Jr., being duly sworn, deposes and says:

1.       I am a shareholder with the law firm Lowey Dannenberg Cohen & Hart, P.C., counsel for Plaintiffs and the proposed class in this action.

2.       On January 5, 2016, I caused to be served via Federal Express International Priority courier a “FedEx Pak” containing a true and correct copy of the Summons and Amended Complaint in the above-captioned action on Defendant Mizuho Trust and Banking Co., Ltd. (“Mizuho”), along with a copy of all exhibits to the Amended Complaint. The documents were not translated from English to Japanese.<sup>1</sup> The Federal Express package was addressed to:

TAKEO NAKANO, PRESIDENT & CEO  
MIZUHO TRUST AND BANKING CO., LTD.  
1-2-1 YAESU CHUO-KU, TOKYO 103-8670  
TOKYO, 1038670 JP

3.       On that same date, I caused an e-mail to be sent to Jeffrey Resetarits, Esq. at [jresetarits@shearman.com](mailto:jresetarits@shearman.com), counsel of record for Mizuho in the related *Laydon v. Mizuho Bank, Ltd. et al.*, 12-cv-3419 (S.D.N.Y.) action. That e-mail attached a carbon copy of the covering letter accompanying the Federal Express package (but not the Summons, Amended Complaint and attachments thereto). A true and correct copy of the e-mail and attachment is collectively annexed hereto as Exhibit “A”.

4.       Mizuho is a Japanese corporation. As a foreign corporation, Mizuho may be served “by any internationally agreed means of service that is reasonably calculated to give

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<sup>1</sup> See *Lemme v. Wine of Japan Import*, 631 F. Supp. 456, 464 (E.D.N.Y. 1986).

notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents.” *See* Fed. R. Civ. P. 4(f)(1) &(h)(2).

5. The United States and Japan have entered into the Hague Convention. Article 10(a) of the Hague Convention states that “the present Convention shall not interfere with . . . the freedom to send judicial documents, by postal channels, directly to persons abroad” as long as the “State of destination does not object . . . .” While the government of Japan has objected to subparagraphs (b) and (c) of Article 10 of the Hague Convention, it has not objected to Article 10(a).<sup>2</sup>

6. On January 7, 2016, I received e-mail confirmation from Federal Express that the package I caused to be sent on January 5, 2016 was delivered on January 7, 2016 at 1:26pm and was signed for by “X. Tonegawa” at the “Mailroom.” Attached as Exhibit B is a true and correct copy of the proof and notification of delivery I received from Federal Express in connection with the FedEx Pak that is the subject of this Affidavit.<sup>3</sup>



Peter D. St. Phillip, Jr.

Sworn before me this  
7th day of January, 2016

  
Notary Public

KATHERINE M. VOGEL  
Notary Public, State of New York  
No. 01VO4942278  
Qualified in Westchester County  
Commission Expires Sept. 19, 2018

<sup>2</sup> *See Lemme*, 631 F. Supp. at 463-64.

<sup>3</sup> This Court has held that Federal Express is a “postal channel” for purposes of Article 10(a) of the Hague Convention. *BidontheCity.com LLC v. Halverston Holdings Ltd.*, No. 12 Civ. 9258, 2014 U.S. Dist. LEXIS 45891, \*20-23 (S.D.N.Y. Mar. 31, 2014). The Special Commission on the Practice Operation of the Hague Apostille, Evidence and Service Conventions agrees. *Conclusions and Recommendations Adopted by the Special Commission on the Practical Operation of the Hague Apostille, Evidence and Service Conventions (28 October to 4 November 2003)*, ¶ 56 (the Special Commission “concluded that for the purposes of Article 10(a) [of the Hague Convention] the use of a private carrier was the equivalent of a postal channel.”) available at [https://assets.hcch.net/upload/wop/lse\\_concl\\_e.pdf](https://assets.hcch.net/upload/wop/lse_concl_e.pdf).

# EXHIBIT A

**Raymond Girnys**

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**From:** Raymond Girnys  
**Sent:** Tuesday, January 05, 2016 12:44 PM  
**To:** 'Jeffrey Resetarits'  
**Cc:** Peter St. Phillip  
**Subject:** RE: Sonterra  
**Attachments:** 1-5-16 Ltr Re Mizuho Trust and Banking.pdf

Jeff,

Please see the attached. Thanks.

Ray

Raymond P. Girnys  
Lowey Dannenberg Cohen & Hart, P.C.  
One North Broadway, 5th Floor  
White Plains, NY 10601  
Main: 914-997-0500  
[rgirnys@lowey.com](mailto:rgirnys@lowey.com)  
[www.lowey.com](http://www.lowey.com)

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West Conshohocken, PA 19428-2977  
610-941-2760 Telephone  
610-862-9777 Fax

January 5, 2016

**VIA FEDERAL EXPRESS**

Takeo Nakano, President & CEO  
Mizuho Trust and Banking Co., Ltd.  
1-2-1 Yaesu  
Chuo-ku, Tokyo 103-8670  
JAPAN

**Re: *Sonterra Capital Master Fund, Ltd. et al. v. UBS AG et al.*, 15-cv-5844 (S.D.N.Y.)**

Dear Mr. Nakano,

Pursuant to Article 10(a) of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, enclosed please find:

- (1) A July 24, 2015 Summons authorizing service of a Class Action Complaint filed in the above-referenced action naming Mizuho Trust and Banking Co., Ltd. as a Defendant;
- (2) A redacted copy of a December 18, 2015 Amended Class Action Complaint naming Mizuho Trust and Banking Co., Ltd. as a Defendant in the above-referenced action; and
- (3) A CD-ROM containing the Appendix and Exhibits A-1 through I-7 to the December 18, 2015 Amended Class Action Complaint.

Very truly yours,

A handwritten signature in black ink, appearing to read "P. St. Phillip, Jr.", is written over the typed name.

Peter D. St. Phillip, Jr.

cc: Jeffrey J. Resetarits (cover letter only via email)  
Shearman & Sterling LLP

# EXHIBIT B

**Raymond Girnys**

**From:** trackingupdates@fedex.com  
**Sent:** Wednesday, January 06, 2016 11:31 PM  
**To:** Raymond Girnys  
**Subject:** FedEx Shipment 775343292211 Delivered

## Your package has been delivered

Tracking # 775343292211

Ship date:  
Tue, 1/5/2016

PETER D. ST. PHILLIP JR.  
 LOWEY DANNENBERG  
 COHEN HART  
 WHITE PLAINS, NY 10601  
 US



Delivered

Delivery date:  
Thu, 1/7/2016 1:26 pm

TAKEO NAKANO,  
 PRESIDENT CEO  
 MIZUHO TRUST AND  
 BANKING CO., LTD.  
 1-2-1 YAESU CHUO-KU,  
 TOKYO 103-8670  
 TOKYO, 1038670  
 JP

### Shipment Facts

Our records indicate that the following package has been delivered.

**Tracking number:** 775343292211

**Status:** Delivered: 01/07/2016 1:26 PM  
 Signed for By: X.TONEGAWA

**Reference:** 2545

**Signed for by:** X.TONEGAWA

**Delivery location:** TOKYO,

**Delivered to:** Mailroom

**Service type:** FedEx International Priority

**Packaging type:** FedEx Pak

**Number of pieces:** 1

**Weight:** 2.60 lb.

**Special handling/Services:** Deliver Weekday

☒ Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 10:30 PM CST on 01/06/2016.



To learn more about FedEx Express, please go to [fedex.com](http://fedex.com).

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above, or go to [fedex.com](http://fedex.com).

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Thank you for your business.